

ASSEMBLY BILL

No. 1389

Introduced by Assembly Member Torrico

February 23, 2007

An act to amend Sections 12711, 12712, 12714, 12715, and 12715.5 of, and to repeal Section 12718 of, the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as introduced, Torrico. Tribal gaming: local agencies.

Existing law creates in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state. Existing law authorizes moneys in that fund to be used for specified purposes, including for grants for the support of state and local government agencies impacted by tribal government gaming.

Existing law creates, until January 1, 2009, a County Tribal Casino Account in the treasury for each county that contains a tribal casino. Existing law requires that 5% of the total amount appropriated by the Legislature for grants to local agencies impacted by tribal gaming be deposited in the County Tribal Casino Accounts for counties that do not have gaming devices that obligate an Indian tribe to make payments to the Indian Gaming Special Distribution Fund. Existing law requires that 95% of the total amount appropriated by the Legislature for that purpose be deposited in those accounts for counties that have gaming devices that obligate an Indian tribe to make payments to the Indian Gaming Special Distribution Fund.

This bill would require, instead, that the amount deposited in each eligible county's County Tribal Casino Account be determined based on the number of gaming devices located in that county.

Existing law requires the Controller to divide the County Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account, known as an Individual Tribal Casino Account, for each tribe that operates a casino within the county. Existing law provides for a certain portion of funds in an Individual Tribal Casino Account to be used for grants to local agencies impacted by tribes that are paying into the Indian Gaming Special Distribution Fund, and a certain portion for grants to local agencies impacted by tribes that are not paying into that fund.

This bill would eliminate that distinction between the funds that are required to be used for grants to local agencies impacted by tribes that are paying into the Indian Gaming Special Distribution Fund and those that are required to be used for grants to local agencies impacted by tribes that are not paying into that fund.

Existing law requires that a certain portion of the funds in an Individual Tribal Casino Account be used for discretionary grants to local jurisdictions impacted by tribes, irrespective of any nexus to impacts from any particular tribal casino.

This bill would require, instead, that these discretionary grants be awarded to mitigate impacts from tribal casinos.

The bill would delete the January 1, 2009, expiration date for these provisions, thereby extending their operation indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12711 of the Government Code is
- 2 amended to read:
- 3 12711. (a) It is the intent of the Legislature to establish a fair
- 4 and proportionate system to award grants from the Indian Gaming
- 5 Special Distribution Fund for the support of local government
- 6 agencies impacted by tribal gaming. ~~It is also the intent of the~~
- 7 ~~Legislature that priority for funding shall be given to local~~
- 8 ~~government agencies impacted by the tribal casinos that contribute~~
- 9 ~~to the Indian Gaming Special Distribution Fund.~~

(b) It is the intent of the Legislature that in the event that any compact between any tribe and the state takes effect on or after the effective date of this chapter, or that any compact between any tribe and the state that took effect on or before May 16, 2000, is renegotiated and reexecuted at any time after its initial effective date, money provided to the state by a tribe pursuant to the terms of these compacts shall be applied on a pro rata basis to the state costs for the regulation of gaming and for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs.

(c) It is the intent of the Legislature that if any compact between any tribe and the state takes effect on or after the effective date of this chapter, or if any compact between any tribe and the state that took effect on or before May 16, 2000, is renegotiated and reexecuted at any time after its initial effective date, any revenue sharing provisions of that compact that ~~requires~~ *require* distributions to nongaming or noncompact tribes shall result in a decrease in the amount that the Legislature appropriates pursuant to this chapter.

SEC. 2. Section 12712 of the Government Code is amended to read:

12712. As used in this chapter:

(a) “County Tribal Casino Account” means an account consisting of all moneys ~~paid by tribes of that county into~~ *from the Indian Gaming Special Distribution Fund credited to that county based upon the number of gaming devices in that county*, after deduction of the amounts appropriated pursuant to the priorities specified in Section 12012.85.

(b) “~~Individual Tribal Casino Accounts~~” *Account*” means an account for each individual tribe that ~~has paid money into the Indian Gaming Special Distribution Fund~~ *possesses gaming devices*. The individual tribal casino account shall be funded in proportion to the ~~amount that the individual tribe has paid into the Indian Gaming Special Distribution Fund~~ *number of gaming devices in the possession of that tribe*.

(c) “Local jurisdiction” means any city, county, or special district.

SEC. 3. Section 12714 of the Government Code is amended to read:

1 12714. (a) A County Tribal Casino Account is hereby created
2 in the treasury for each county that contains a tribal casino.

3 (b) (1) The amount to be deposited into each eligible county's
4 County Tribal Casino Account shall be calculated in the following
5 way:

6 ~~(1) (A) For counties that do not have gaming devices subject~~
7 ~~to an obligation to make contributions to the Indian Gaming Special~~
8 ~~Distribution Fund, the total amount to be appropriated by the~~
9 ~~Legislature for grants to local government agencies impacted by~~
10 ~~tribal gaming shall be multiplied by 5 percent.~~

11 ~~(B)~~
12 ~~(A) The amount determined pursuant to subparagraph (A) total~~
13 ~~amount to be appropriated by the Legislature for grants to local~~
14 ~~government agencies impacted by tribal gaming shall be divided~~
15 ~~by the aggregate number of gaming devices located in those~~
16 ~~counties that do not have gaming devices subject to an obligation~~
17 ~~to make contributions to the Indian Gaming Special Distribution~~
18 ~~Fund in the state.~~

19 ~~(C)~~
20 ~~(B) The amount determined pursuant to subparagraph (B) (A)~~
21 ~~shall be multiplied by the number of gaming devices located in~~
22 ~~each county for which an appropriation is being calculated that~~
23 ~~are not subject to an obligation to make contributions to the Indian~~
24 ~~Gaming Special Distribution Fund.~~

25 ~~(D)~~
26 ~~(2) The amount determined pursuant to subparagraph (C) (B)~~
27 ~~of paragraph (1) shall be deposited into the County Tribal Casino~~
28 ~~Account for the county for which the appropriation was calculated.~~

29 ~~(2) (A) For counties that have gaming devices subject to an~~
30 ~~obligation to make contributions to the Indian Gaming Special~~
31 ~~Distribution Fund, the total amount to be appropriated by the~~
32 ~~Legislature for grants to local government agencies impacted by~~
33 ~~tribal gaming shall be multiplied by 95 percent.~~

34 ~~(B) The amount determined pursuant to subparagraph (A) shall~~
35 ~~be divided by the aggregate number of gaming devices located in~~
36 ~~those counties that have gaming devices subject to an obligation~~
37 ~~to make contributions to the Indian Gaming Special Distribution~~
38 ~~Fund.~~

39 ~~(C) The amount determined pursuant to subparagraph (B) shall~~
40 ~~be multiplied by the number of gaming devices located in each~~

1 county for which an appropriation is being calculated that are
2 subject to an obligation to make contributions to the Indian Gaming
3 Special Distribution Fund.

4 (D) The amount determined pursuant to subparagraph (C) shall
5 be deposited into the County Tribal Casino Account for the county
6 for which the appropriation was calculated.

7 SEC. 4. Section 12715 of the Government Code is amended
8 to read:

9 12715. (a) The Controller, acting in consultation with the
10 California Gambling Control Commission, shall divide the County
11 Tribal Casino Account for each county that has gaming devices
12 that are subject to an obligation to make contributions to the Indian
13 Gaming Special Distribution Fund into a separate account for each
14 tribe that operates a casino within the county. These accounts shall
15 be known as Individual Tribal Casino Accounts, and funds may
16 be released from these accounts to make grants selected by an
17 Indian Gaming Local Community Benefit Committee pursuant to
18 the method established by this section to local jurisdictions
19 impacted by tribal casinos. Each Individual Tribal Casino Account
20 shall be funded in proportion to the amount that each individual
21 tribe paid in the prior fiscal year to the Indian Gaming Special
22 Distribution Fund *number of gaming devices in the possession of*
23 *each individual tribe for which amounts are deposited in a County*
24 *Tribal Casino Account pursuant to Section 12714.*

25 (b) (1) There is hereby created in each county in which Indian
26 gaming is conducted an Indian Gaming Local Community Benefit
27 Committee. The selection of all grants from each Individual Tribal
28 Casino Account or County Tribal Casino Account shall be made
29 by each county's Indian Gaming Local Community Benefit
30 Committee. In selecting grants, the Indian Gaming Local
31 Community Benefit Committee shall follow the priorities
32 established in subdivision (g). This committee has the following
33 additional responsibilities:

34 (A) Establishing all application policies and procedures for
35 grants from the Individual Tribal Casino Account or County Tribal
36 Casino Account.

37 (B) Assessing the eligibility of applications for grants from local
38 jurisdictions impacted by tribal gaming operations.

39 (C) Determining the appropriate amount for reimbursement
40 from the aggregate county tribal account of the demonstrated costs

1 incurred by the county for administering the grant programs. The
2 reimbursement for county administrative costs may not exceed 2
3 percent of the aggregate county tribal account in any given fiscal
4 year.

5 (2) Except as provided in Section 12715.5, the Indian Gaming
6 Local Community Benefit Committee shall be composed of seven
7 representatives, consisting of the following:

8 (A) Two representatives from the county, selected by the county
9 board of supervisors.

10 (B) Three elected representatives from cities located within four
11 miles of a tribal casino in the county, selected by the county board
12 of supervisors. In the event that there are no cities located within
13 four miles of a tribal casino in the county, other local
14 representatives may be selected upon mutual agreement by the
15 county board of supervisors and a majority of the tribes ~~paying~~
16 ~~into the Indian Gaming Special Distribution Fund in the county.~~
17 ~~When there are no cities within four miles of a tribal casino in the~~
18 ~~county, and when the Indian Gaming Local Community Benefit~~
19 ~~Committee acts on behalf of a county where no tribes pay into the~~
20 ~~Indian Gaming Special Distribution Fund, other local~~
21 ~~representatives may be selected upon mutual agreement by the~~
22 ~~county board of supervisors and a majority of the tribes operating~~
23 ~~casinos in the county.~~

24 (C) Two representatives selected upon the recommendation of
25 a majority of the tribes ~~paying into the Indian Gaming Special~~
26 ~~Distribution Fund operating casinos in each county. When an~~
27 ~~Indian Gaming Local Community Benefit Committee acts on~~
28 ~~behalf of a county where no tribes pay into the Indian Gaming~~
29 ~~Special Distribution Fund, the two representatives may be selected~~
30 ~~upon the recommendation of the tribes operating casinos in the~~
31 ~~county.~~

32 (c) Sixty percent of each individual tribal casino account shall
33 be available for nexus grants on a yearly basis to cities and counties
34 impacted by tribes that are ~~paying into the Indian Gaming Special~~
35 ~~Distribution Fund tribal casinos~~, according to the four-part nexus
36 test described in paragraph (1). Grant awards shall be selected by
37 each county's Indian Gaming Local Community Benefit Committee
38 and shall be administered by the county. Grants may be awarded
39 on a multiyear basis, and these multiyear grants shall be accounted
40 for in the grant process for each year.

1 (1) A nexus test based on the geographical proximity of a local
2 government jurisdiction to an individual Indian land upon which
3 a tribal casino is located shall be used by each county's Indian
4 Gaming Local Community Benefit Committee to determine the
5 relative priority for grants, using the following criteria:

6 (A) Whether the local government jurisdiction borders the Indian
7 lands on all sides.

8 (B) Whether the local government jurisdiction partially borders
9 Indian lands.

10 (C) Whether the local government jurisdiction maintains a
11 highway, road, or other thoroughfare that is the predominant access
12 route to a casino that is located within four miles.

13 (D) Whether all or a portion of the local government jurisdiction
14 is located within four miles of a casino.

15 (2) Fifty percent of the amount specified in subdivision (c) shall
16 be awarded in equal proportions to local government jurisdictions
17 that meet all four of the nexus test criteria in paragraph (1). If no
18 eligible local government jurisdiction satisfies this requirement,
19 the amount specified in this paragraph shall be made available for
20 nexus grants in equal proportions to local government jurisdictions
21 meeting the requirements of paragraph (3) or (4).

22 (3) Thirty percent of the amount specified in subdivision (c)
23 shall be awarded in equal proportions to local government
24 jurisdictions that meet three of the nexus test criteria in paragraph
25 (1). If no eligible local government jurisdiction satisfies this
26 requirement, the amount specified in this paragraph shall be made
27 available for nexus grants in equal proportions to local government
28 jurisdictions meeting the requirements of paragraph (2) or (4).

29 (4) Twenty percent of the amount specified in subdivision (c)
30 shall be awarded in equal proportions to local government
31 jurisdictions that meet two of the nexus test criteria in paragraph
32 (1). If no eligible local government jurisdiction satisfies this
33 requirement, the amount specified in this paragraph shall be made
34 available for nexus grants in equal proportions to local government
35 jurisdictions meeting the requirements of paragraph (2) or (3).

36 (d) ~~Twenty-Forty~~ percent of each Individual Tribal Casino
37 Account shall be available for discretionary grants to local
38 jurisdictions impacted by ~~tribes that are paying into the Indian~~
39 ~~Gaming Special Distribution Fund~~ *tribal casinos*. These
40 discretionary grants shall be made available to all local jurisdictions

1 in the county ~~irrespective of any nexus to impacts from any~~
2 ~~particular tribal casino, as described in paragraph (1) of subdivision~~
3 ~~(e), and shall be awarded to mitigate impacts from tribal casinos.~~
4 Grant awards shall be selected by each county's Indian Gaming
5 Local Community Benefit Committee and shall be administered
6 by the county. Grants may be awarded on a multiyear basis, and
7 these multiyear grants shall be accounted for in the grant process
8 for each year.

9 ~~(e) (1) Twenty percent of each Individual Tribal Casino Account~~
10 ~~shall be available for discretionary grants to local jurisdictions~~
11 ~~impacted by tribes that are not paying into the Indian Gaming~~
12 ~~Special Distribution Fund. These grants shall be made available~~
13 ~~to local jurisdictions in the county irrespective of any nexus to~~
14 ~~impacts from any particular tribal casino, as described in paragraph~~
15 ~~(1) of subdivision (e), and irrespective of whether the impacts~~
16 ~~presented are from a tribal casino that is not paying into the Indian~~
17 ~~Gaming Special Distribution Fund. Grant awards shall be selected~~
18 ~~by each county's Indian Gaming Local Community Benefit~~
19 ~~Committee and shall be administered by the county. Grants may~~
20 ~~be awarded on a multiyear basis, and these multiyear grants shall~~
21 ~~be accounted for in the grant process for each year.~~

22 ~~(A) Grants awarded pursuant to this subdivision are limited to~~
23 ~~addressing service-oriented impacts and providing assistance with~~
24 ~~one-time large capital projects related to Indian gaming impacts.~~

25 ~~(B) Grants shall be subject to the sole sponsorship of the tribe~~
26 ~~that pays into the Indian Gaming Special Distribution Fund and~~
27 ~~the recommendations of the Indian Gaming Local Community~~
28 ~~Benefit Committee for that county.~~

29 ~~(2) If an eligible county does not have a tribal casino operated~~
30 ~~by a tribe that does not pay into the Indian Gaming Special~~
31 ~~Distribution Fund, the money available for discretionary grants~~
32 ~~under this subdivision shall be available for distribution pursuant~~
33 ~~to subdivision (d).~~

34 ~~(f) (1) For each county that does not have gaming devices~~
35 ~~subject to an obligation to make payments to the Indian Gaming~~
36 ~~Special Distribution Fund, funds may be released from the county's~~
37 ~~County Tribal Casino Account to make grants selected by the~~
38 ~~county's Indian Gaming Local Community Benefit Committee~~
39 ~~pursuant to the method established by this section to local~~
40 ~~jurisdictions impacted by tribal casinos. These grants shall be made~~

1 available to local jurisdictions in the county irrespective of any
2 nexus to any particular tribal casino. These grants shall follow the
3 priorities specified in subdivision (g).

4 (2) Funds not allocated from a county tribal casino account by
5 the end of each fiscal year shall revert back to the Indian Gaming
6 Special Distribution Fund. Moneys allocated for the 2003-04 fiscal
7 year shall be eligible for expenditure through December 31, 2004.

8 (g)

9 (e) The following uses shall be the priorities for the receipt of
10 grant money from Individual Tribal Casino Accounts: law
11 enforcement, fire services, emergency medical services,
12 environmental impacts, water supplies, waste disposal, behavioral,
13 health, planning and adjacent land uses, public health, roads,
14 recreation and youth programs, and child care programs.

15 (h)

16 (f) All grants from Individual Tribal Casino Accounts shall be
17 made only upon the affirmative sponsorship of the tribe paying
18 into the Indian Gaming Special Distribution Fund from whose
19 Individual Tribal Casino Account the grant moneys are available
20 for distribution. Tribal sponsorship shall confirm that the grant
21 application has a reasonable relationship to a casino impact and
22 satisfies at least one of the priorities listed in subdivision (g) (e).
23 A grant may not be made for any purpose that would support or
24 fund, directly or indirectly, any effort related to the opposition or
25 challenge to Indian gaming in the state, and, to the extent any
26 awarded grant is utilized for any prohibited purpose by any local
27 government, upon notice given to the county by any tribe from
28 whose Individual Tribal Casino Account the awarded grant went
29 toward that prohibited use, the grant shall terminate immediately
30 and any moneys not yet used shall again be made available for
31 qualified nexus grants.

32 (i)

33 (g) A local government jurisdiction that is a recipient of a grant
34 from an Individual County Tribal Casino Account or a County
35 Tribal Casino Account shall provide notice to the public, either
36 through a slogan, signage, or other mechanism, stating that the
37 local government project has received funding from the Indian
38 Gaming Special Distribution Fund and further identifying the
39 particular Individual Tribal Casino Account from which the grant
40 derives.

1 (j)

2 (h) (1) Each county's Indian Gaming Local Community Benefit
3 Committee shall submit to the Controller a list of approved projects
4 for funding from Individual Tribal Casino Accounts. Upon receipt
5 of this list, the Controller shall release the funds directly to the
6 local government entities for which a grant has been approved by
7 the committee.

8 (2) Funds not allocated from an Individual Tribal Casino
9 Account by the end of each fiscal year shall revert back to the
10 Indian Gaming Special Distribution Fund. Moneys allocated for
11 the ~~2003-04~~ 2003-04 fiscal year shall be eligible for expenditure
12 through December 31, 2004.

13 SEC. 5. Section 12715.5 of the Government Code is amended
14 to read:

15 12715.5. In San Diego County, the Indian Gaming Local
16 Community Benefit Committee shall be comprised of seven
17 representatives, consisting of the following:

18 (a) Two representatives from the county, selected by the county
19 board of supervisors.

20 (b) One elected representative from the city located within four
21 miles of a tribal casino in the county, selected by the county board
22 of supervisors.

23 (c) Three representatives selected upon the recommendation of
24 a majority of the tribes ~~paying into the Indian Gaming Special~~
25 ~~Distribution Fund~~ *operating casinos* in the county.

26 (d) The sheriff of San Diego County.

27 SEC. 6. Section 12718 of the Government Code is repealed.

28 ~~12718. This chapter shall remain in effect only until January~~
29 ~~1, 2009, and as of that date is repealed, unless a later enacted statute~~
30 ~~that is enacted before January 1, 2009, deletes or extends that date.~~